

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 17-0853-DOC (JDEEx)

Date: June 14, 2017

Title: TECHSTOCK USA, LLC V. RA'S MERCHANDISE, LLC, ET AL.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Deborah Goltz	Not Present
Courtroom Clerk	Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR
DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER TO SHOW CAUSE WHY
COURT SHOULD NOT DISMISS
FOR LACK OF JURISDICTION**

Before the Court is an action brought by Plaintiff TechStock USA, LLC (“Plaintiff”) against RA’s Merchandise, LLC (“RA”) and Arlene Platteborze (“Platteborze”) (collectively, “Defendants”).

I. Background

The Court draws the following facts from Plaintiff’s Complaint (Dkt. 1).

Plaintiff purchased 7,500 iTunes gift cards, each with a value of \$100.00, from RA for \$622,500.00. Compl. ¶ 6. Platteborze personally guaranteed RA’s performance in writing. *Id.* ¶ 7. Defendants shipped a portion of the gift cards, but could not guarantee when the remaining gift cards would be delivered. *Id.* ¶ 9. In or around December 2016, Plaintiff and Defendants agreed that Defendants would refund Plaintiff the balance of \$267,675.00 before December 30, 2016. *Id.* ¶ 10. Defendants only returned \$61,465.00, leaving a balance of \$206,210.00 owed to Plaintiff. *Id.* ¶ 10.

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Plaintiff brings claims against Defendants for breach of contract, and money had and received. Plaintiff also brings a claim against RA for conversion. *See id.* Plaintiff seeks \$206,210.00 in compensatory damages. *Id.* at 4.

II. Legal Standard

A. Jurisdiction

In the United States, state courts can hear almost any claim. However, federal courts can only hear cases over which they have subject matter jurisdiction. Plaintiff here alleges diversity jurisdiction. A federal court has diversity jurisdiction if: (1) the controversy is between “citizens of different States;” and (2) the amount in controversy exceeds the sum or value of \$75,000. 28 U.S.C. § 1332; *see Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 373–74 (1978).

B. Pleading Standard

Each action filed in federal court must contain “a short and plain statement of the grounds for the court’s jurisdiction” Fed. R. Civ. P. 8. This Court’s Local Rules also state that “[t]he statutory or other basis for the exercise of jurisdiction by this Court shall be plainly stated in the first paragraph of any document invoking this Court’s jurisdiction. L.R. 8-1.

III. Discussion

On the Civil Cover Sheet (Dkt. 2) filled out by Plaintiff and filed with the Complaint, Plaintiff alleges that this Court has diversity jurisdiction. In the complaint, Plaintiff fails to provide any grounds for federal jurisdiction.

The Ninth Circuit has held that “like a partnership, an LLC is a citizen of every state of which its owners/members are citizens.” *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). A plaintiff must therefore allege the citizenship of all of the entity’s partners in order to properly allege diversity. *Carden v. Arkoma Assocs.*, 494 U.S. 185, 192–96, (1990). RA is an LLC. Compl. ¶ 2.

Aside from Platteborze, Plaintiff has not alleged the citizenship of any of RA’s partners, nor the number of partners. Because RA is a limited liability company, Plaintiff must allege that each of RA’s partners are all citizens of states other than California, and that RA is headquartered outside of California. Plaintiff has done neither.

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Accordingly, the Court ORDERS Plaintiff to show cause why this case should not be dismissed for lack of subject matter jurisdiction, **on or before July 3, 2017**. Plaintiff may discharge this order by alleging that Plaintiff and Defendant RA are citizens of different states for purposes of diversity jurisdiction. If Plaintiff does not sufficiently plead diversity jurisdiction on or before July 3, 2017, this case will be dismissed.

The Clerk shall serve this minute order on the parties.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: djg